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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

U.S. Ethernet Innovations, LLC,
Plaintiff,
v.
Acer, Inc., et al.,
Defendants.
and
Atheros Communications, Inc., et al.,
Intervenors.

Case No. 4:10-cv-03724 CW (LB)

DECLARATION OF SETH M. SPROUL
PURSUANT TO CIVIL L.R. 79-5(d) RE
U.S. ETHERNET INNOVATION'S
ADMINISTRATIVE MOTION TO FILE UNDER
SEAL EXHIBIT A TO THE DECLARATION OF
RYAN K. WALSH FILED WITH ITS CORRECTED
SUPPLEMENTAL NOTICE IN CONNECTION
WITH JOINT DISCOVERY LETTER REGARDING
INTEL'S MOTION TO ENFORCE THE
STIPULATED PROTECTIVE ORDER

Judge: Hon. Claudia Wilken
Courtroom: 2, 4th floor

1 I, Seth M. Sproul, declare as follows:

2 1. I am a principal in the law firm of Fish & Richardson P.C., and counsel of record
3 for Intervenor Intel Corporation ("Intel"). I have personal knowledge of the facts set forth in this
4 declaration, and if called as a witness, I could and would testify competently thereto.

5 2. This declaration is being filed pursuant to Civil Local Rule 79-5(d) and is
6 responsive to Plaintiff U.S. Ethernet Innovations ("USEI") Administrative Motion to File Under
7 Seal Exhibit A to the Declaration of Ryan K. Walsh filed with its Corrected Supplemental Notice
8 in Connection with Joint Discovery Letter regarding Intel's Motion to Enforce the Stipulated
9 Protective Order (D.I. 998). Intel is the designating party for the confidential information
10 contained in Exhibit A ("New Exhibit A") which was lodged under seal pursuant to said motion.
11 This exhibit was attached to the Declaration of Ryan K. Walsh filed with its Corrected
12 Supplemental Notice in Connection with Joint Discovery Letter regarding Intel's Motion to
13 Enforce the Stipulated Protective Order (D.I. 998-1) ("Walsh Declaration").

14 3. USEI identified the documents at the heart of the current dispute on December 17,
15 2013. However, USEI did not identify New Exhibit A to the Walsh Declaration until two months
16 later, on Tuesday, February 18, 2014. Although the document should not be a part of the record, it
17 contains highly confidential information subject to the Protective Order in this case, and should be
18 maintained as confidential.

19 4. Pursuant to Civil Local Rule 79-5(d), New Exhibit A to the Walsh Declaration
20 contains designated information that is sealable. New Exhibit A to the Walsh Declaration is an
21 internal email from Intel engineer Yosi Mazor from 1992 discussing the confidential development
22 of Intel's D10 Ethernet controller. This email contains non-public information for Intel's D10
23 Ethernet controller design, which was never released to the public, and analysis related to
24 competitor products at that time. The material in New Exhibit A is not available to the public and
25 Intel maintains it as confidential. Public release could result in a competitive disadvantage to Intel
26 because it would allow competitors insight into Intel's confidential design, testing, and production
27 practices and techniques. The policy behind the public right of access to court materials does not
28

1 generally extend to discovery materials that are used in conjunction with a non-dispositive motion,
2 such as the dispute here.

3 I declare under penalty of perjury that the foregoing is true and correct, pursuant to
4 28 U.S.C. § 1746. Executed in San Diego, California on the 24 day of February, 2014.

5
6 /s/ Seth M. Sproul

Seth M. Sproul

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